

## Department of Justice

## §2.218

the charges, a summary of the arguments against revocation presented by the releasee, and the examiner's recommended decision. The hearing examiner's summary, together with the releasee's file (including any documentary evidence and letters submitted on behalf of the releasee), shall be given to another examiner for review. When two hearing examiners concur in a recommended disposition, that recommendation, together with the releasee's file and the hearing examiner's summary of the hearing, shall be submitted to the Commission for decision.

[65 FR 70467, Nov. 24, 2000, as amended at 68 FR 3392, Jan. 24, 2003]

### **§2.217 Issuance of subpoena for appearance of witnesses or production of documents.**

(a)(1) If any adverse witness (*i.e.*, a person who has given information upon which revocation may be based) refuses, upon request by the Commission, to appear at a probable cause hearing or local revocation hearing, a Commissioner may issue a subpoena for the appearance of such witness.

(2) In addition, a Commissioner may, upon a showing by the releasee that a witness whose testimony is necessary to the proper disposition of his case will not appear voluntarily at a local revocation hearing or provide an adequate written statement of his testimony, issue a subpoena for the appearance of such witness at the revocation hearing.

(3) A subpoena may also be issued at the discretion of a Commissioner if an adverse witness is judged unlikely to appear as requested, or if the subpoena is deemed necessary for the orderly processing of the case.

(b) A subpoena may require the production of documents as well as, or in lieu of, a personal appearance. The subpoena shall specify the time and the place at which the person named therein is commanded to appear, and shall specify any documents required to be produced.

(c) A subpoena may be served by any Federal or District of Columbia officer authorized to serve criminal process. The subpoena may be served at any place within the judicial district in

which the place specified in the subpoena is located, or any place where the witness may be found. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such a person.

(d) If a person refuses to obey such subpoena, the Commission may petition a court of the United States for the judicial district in which the revocation proceeding is being conducted, or in which such person may be found, to require such person to appear, testify, or produce evidence. If the court issues an order requiring such person to appear before the Commission, failure to obey such an order is punishable as contempt, as provided in 18 U.S.C. 4214(a)(2).

[65 FR 70467, Nov. 24, 2000, as amended at 68 FR 3392, Jan. 24, 2003]

### **§2.218 Revocation decisions.**

(a) Whenever a releasee is summoned or retaken by the Commission, and the Commission finds by a preponderance of the evidence that the releasee has violated one or more conditions of his supervised release, the Commission may take any of the following actions:

(1) Restore the releasee to supervision, and where appropriate:

(i) Reprimand the releasee;

(ii) Modify the releasee's conditions of release;

(iii) Refer the releasee to a residential community corrections center for all or part of the remainder of his term of supervised release; or

(2) Revoke the term of supervised release.

(b) If supervised release is revoked, the Commission shall determine whether the releasee shall be returned to prison to serve a new term of imprisonment, and the length of that term, or whether a new term of imprisonment shall be imposed but limited to time served. If the Commission imposes a new term of imprisonment that is less than the applicable maximum term authorized by law, the Commission shall also determine whether to impose a further term of supervised release to commence after the new term of imprisonment has been served. If the new term of imprisonment is limited to time served, any further term of supervised release shall commence upon the